

REMARKS

The Examiner has rejected claims 12, 13, and 15-21 as being unpatentable over Masini in view of Merrill arguing that it would have been obvious to one with ordinary skill to manufacture the device disclosed in Masini, wherein the body is made from a radiation treated ultra high molecular weight polyethylene, in view of Merrill in order to improve wear resistance of the device.

The Applicants respectfully disagree. Masini does not teach an ancillary for removing bone comprising a part made of a plastic material which is to come into contact with bone to be removed and which is adapted to remove the bone when said ancillary is used. Indeed, the title of the Masini reference underscores that its teachings and claims relate to "bone cutting *guides*" as distinguished from bone cutting devices. The Examiner has pointed specifically to Figure 4 and to body 410 configured to receive an insert 424, but has failed to point to a part made of a plastic material which is to come into contact with bone to be removed and which is adapted to remove the bone. While Figure 4 discloses a cutting tool such as oscillating saw 430, this cutting tool is not part of the tray 410 or the insert 424, and is not disclosed as being made of a plastic material.

With respect to claims 15-18, Applicants disagree with the Examiner's assertion that Masini discloses a device wherein the part made of plastic comprises at least one insert of a material harder than bone, such as metal, wherein the insert is at least partially embedded in the plastic material. While Masini discloses elements that may or may not be harder than bone, including slots (220, 222), a screw/pin (216), a guide (225), an aperture (230), aperture side surfaces (232, 234), inserts (424), or lips (420), none of these elements are *embedded* (partly or fully) in the plastic material. The Applicants disagree with the Examiner's assertion that situating the insert 424 inside the tray-like body 410, where the insert is free to rotate within the body or even fall out of the body, is a teaching of an insert embedded in the plastic material.

Nevertheless, the Applicants have amended claim 21 to now recite a rasp for removing a part of a bone from the bone, comprising protrusions made of a plastic material hard enough for this removal. The Applicants believe such an amendment clearly claims the rasp in a way that is not taught by the cited references. Masini does not disclose a rasp comprising protrusions of any sort, plastic or otherwise. Further, Masini does not disclose a rasp comprising

protrusions made of a plastic material hard enough for removing a part of a bone from the bone. Thus, the Applicants believe claim 21 and the claims that depend therefrom are in condition for allowance.

With respect to claim 20, the Examiner asserts that the combination of Masini and Merrill discloses a device inherently capable of being made by a method comprising providing the device as purportedly disclosed in Masini and Merrill and exposing the plastic material to gamma or beta radiation so the plastic material is hard enough to remove bone when the device is used and when the device is put into an autoclave set to at least 137 degrees Celsius, the device deteriorates and is not longer capable of being used. The Applicants respectfully disagree with this reasoning in that the combination of Masini and Merrill did not and does not disclose the device as claimed.

The Applicants have amended claim 20 to recite a method comprising providing a body having the shape of the rasp as claimed in claim 21, and exposing the plastic material to beta or gamma rays. The Applicants believe such an amendment claims the method in a way that is not inherently capable of being made in light of the cited references. Thus, the Applicants believe claim 20 and the claims that depend therefrom are in condition for allowance.

In light of the foregoing, the Applicants respectfully request reconsideration of the Examiner's rejections and issuance of a Notice of Allowance for claims 12, 13, and 15-21.

Respectfully submitted,



Edward G. Greive, Reg. No. 24,726
Renner, Kenner, Greive, Bobak, Taylor & Weber
Fourth Floor, First National Tower
Akron, Ohio 44308-1456
Telephone: (330) 376-1242

Attorney for Applicants

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